



Indiana Department of Environmental Management
Office of Air Management
Rule Fact Sheet
May 3, 2000

**Developments of Amendments to Rules Concerning References to the
Code of Federal Regulations (CFR)
LSA Document #99-220**

Overview

Unless otherwise indicated, this rulemaking updates any reference to the Code of Federal Regulations (CFR) to mean the 1998 edition of the CFR.

Citations Affected

Amends: 326 IAC 1-1-3.

Affected Persons

This rulemaking affects sources complying with the Indiana Administrative Code (IAC). Unless otherwise indicated, this rulemaking updates the references to the CFR to mean the 1998 edition.

Potential Cost

Any economic impact of this rulemaking results from the federal rulemaking process.

Description

Many of Indiana's air quality standards, sampling procedures, monitoring requirements, and various compliance methodologies are based on federal requirements. During the development of rules under Title 326 of the Indiana Administrative Code (IAC), it is often more efficient to refer to or incorporate specific portions of the CFR rather than to reprint them in full. Incorporation by reference ensures that state rules will not be interpreted in such a way as to conflict with federal law and national policy and allows the state to use the resources of the federal system instead of

expending its own rulemaking resources in what would otherwise be an unnecessary duplication of rulemaking effort. By annually updating the reference to the CFR, the Indiana Department of Environmental Management is able to incorporate by reference the latest version of the parts of the CFR, already incorporated into the air rules, with the exception of those most recently published in the Federal Register.

326 IAC 1-1-3, References to the Code of Federal Regulations, indicates the yearly edition of the CFR which is applicable to rules that have been incorporated by reference throughout Title 326, unless a different edition is specifically incorporated into an individual rule.

The 1998 edition of the CFR is a codification of the general and permanent rules published in the Federal Register (FR) as of June 30, 1998.

Title 40 of the CFR entitled "Protection of Environment," includes all federal environmental regulations promulgated by the U.S. Environmental Protection Agency (U.S. EPA). It is referenced throughout Title 326 of the IAC.

Title 29 of the CFR, entitled "Intergovernmental Review of Environmental Protection Agency Programs and Activities", contains federal rules for the asbestos and lead

programs. Title 29 of the CFR is referenced in Article 14 (Emission Standards for Hazardous Air Pollutants), Article 18 (Asbestos Management), and Article 23 (Lead-Based Paint Program) of Title 326 of the IAC. Many of these regulations are either directly incorporated by reference into Title 326 of the IAC as state-enforceable rule provisions or they are incorporated into Title 326 of the IAC as federal authority for the implementation and enforcement of state rule provisions.

The following are examples of regulations that have been promulgated in the CFR between July 1, 1997, and June 30, 1998. To the extent that 326 IAC refers to these CFR citations, they will be incorporated as part of this rulemaking:

40 CFR 51, Preparation, Adoption, and Submittal of State Implementation Plans

- This rulemaking action of August 15, 1997, establishes a more clarified and flexible transportation conformity rule. The conformity rule requires that transportation plans conform to state air quality implementation plans. Conformity to a state implementation plan (SIP) means that transportation activities will not produce air quality violations, worsen existing violations, or delay timely attainment of national ambient air quality standards.

40 CFR 60, Standards of Performance for New Stationary Sources

- The August 25, 1997, final rule amends the emission guidelines and the standards of performance for municipal waste combustion (MWC) units. These amendments clarify Subparts Cb and Eb, and make technical corrections that had been brought to the attention of U.S. EPA.
- The August 25, 1997, document amends the guidelines and the standards for MWC

units to make them consistent with a court order in a federal lawsuit and subsequent court order. The amendments affect the applicability of the guidelines and standards, and add supplemental emission limits for four (4) pollutants.

- The September 15, 1997, action promulgates new source performance standards and emission guidelines to reduce air emissions from hospital/medical/infectious waste incinerator(s) (HMIWI) by adding standards of performance for new HMIWI, and emission guidelines for existing HMIWI. The standards and guidelines implement Sections 111 and 129 of the Clean Air Act (CAA) as amended in 1990.
- The November 26, 1997, action clarifies the applicability of the New Source Performance Standards for Nonmetallic Mineral Processing Plants (40 CFR 60, Subpart 000).
- The June 16, 1998, action amends, corrects errors, and clarifies regulatory text of the "Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills", which was issued as a final rule and guideline on March 12, 1996.

40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories

- National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants: The October 7, 1997, action promulgates national emission standards for each new or existing potline, paste production plant, and anode bake furnace associated with a primary aluminum reduction plant, and for each new pitch storage tank associated with a primary aluminum production plant. In addition, the new source performance standard for

primary aluminum plants is amended and most of the requirements are incorporated in the final national emission standards.

- National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries. On January 16, 1998, U.S. EPA published a notification of a limited exclusion from applicability for gasoline distribution facilities that would be, but for this action, subject to the air toxic provisions of 40 CFR 63, Subpart R, the National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning. On May 5, 1998, U.S. EPA announced a 3-month stay of certain national emission standards for hazardous air pollutants (NESHAP) for certain sources.
- National Emission Standards for Hazardous Air Pollutants for Source Categories; Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry. The May 12, 1998, action promulgates final amendments to the National Emission Standards for Hazardous Air Pollutants for Source Categories; Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) by adding tetrahydrobenzaldehyde (THBA) and crotonaldehyde to, and removing acetaldehyde from, the list of chemical production processes. This rule also addresses compliance dates; implements Section 112(d) of the CAA; and amends the initial list of source categories of HAP required by Section 112(c) of the Act.

40 CFR 68, Chemical Accident Prevention Provisions

- Accidental Release Prevention Requirements: On August 25, 1997, U.S. EPA announced clarifying interpretations of the accident prevention regulations authorized by Section 112(r) of the CAA.

40 CFR 74, Acid Rain Program

- Revisions to Permits, Allowance System, Sulfur Dioxide Opt-Ins, Continuous Emission Monitoring, Excess Emissions, and Appeal Procedures. The October 24, 1997, final rule revisions streamline the Acid Rain Program while still ensuring achievement of its statutory goals of reducing sulfur dioxide and nitrogen oxides emissions.
- Revisions to Sulfur Dioxide Opt-Ins. The April 16, 1998, final rule is intended to promote participation in the Title IV opt-in program by clarifying existing regulations, allowing a limited exception to the general rule of one (1) designated representative for all affected units at a source, revising the conditions under which the department may cancel current-year allowance allocations, and allowing thermal energy plans to be effective on a quarterly basis.

40 CFR 76, Acid Rain Nitrogen Oxides Emission Reduction Program

- On May 1, 1998, U.S. EPA published a final rule in response to a court order. This action removes a provision of a final rule concerning emission limitations for the second phase of the Nitrogen Oxides Reduction Program under Title IV of the CAA.

40 CFR 82, Protection of Stratospheric Ozone

- This interim final rule published on January 28, 1998, allocates essential-use allowances for the 1998 control period based on the quantities approved by the parties for the nominated uses. Essential use allowances

permit a person to obtain controlled ozone-depleting substances as an exemption to the January 1, 1996, regulatory phaseout of production and import. Essential use allowances are allocated to a person for exempted production or importation of a specific quantity of a controlled substance solely for the designated essential purpose.

- On May 22, 1998, U.S. EPA published a notice of acceptability. This document expands the list of acceptable substitutes for ozone-depleting substances (ODS) under U.S. EPA's Significant New Alternatives Policy (SNAP) program.
- On February 15, 1998, a direct final determination was published. Through this action, U.S. EPA is making a determination that requiring the use of gas impermeable tarps to control emissions of the pesticide methyl bromide is not appropriate under Section 608(a)(2) of the CAA at this time. Methyl bromide depletes stratospheric ozone, which protects the earth from harmful ultraviolet radiation, and existing CAA regulations call for U.S. production and importation of methyl bromide to cease by January of 2001.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.

6) Economic reasonableness of measuring or reducing any particular type of pollution.

7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:

- (A) human, plant animal, or aquatic life; or
- (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rules are consistent with federal rules.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Kiran Verma, Rule Development Section, Office of Air Management, (317) 233-5678 or (800) 451-6027, press 0, and ask for extension 3-5678 (in Indiana).